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In re Application of	:	OFFICE OF PETITIONS
Tadayoshi Okada et al.	:	
Application No. 10/663,060	:	DECISION ON PETITION UNDER
Filed: September 12, 2003	:	37 C.F.R. §1.181(A)
Attorney Docket Number: A35998-	:	
074224.0118	:	
Title: HIGH-STRENGTH BOLTED	:	
CONNECTION STRUCTURE WITH NO	:	
FIRE PROTECTION	:	

This is a decision on the petition under 37 CFR §1.181(a), filed January 11, 2006, to withdraw the holding of abandonment.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed June 24, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 25, 2005.

With the present petition, petitioner has asserted that a reply was timely submitted on October 19, 2005.

RELEVANT PORTION OF THE C.F.R.

37 CFR §1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence,

or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

Petitioner has asserted that on October 19, 2005, a response to the notice was timely submitted in conjunction with a one-month extension of time via facsimile transmission. Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of facsimile transmission which is dated October 19, 2005. As such, Petitioner has met the requirements of 37 CFR §§1.8(b)(1) - (3), reproduced above. The Office has been informed of the previous transmission of the correspondence, an additional copy of the same has been provided with this petition, and Petitioner has included a statement which attests on a personal knowledge basis to the previous timely transmission.

As such, Petitioner has established that an after-final amendment was timely transmitted to the Office on October 19, 2005. However, the after-final amendment cannot be accepted as a proper response to the final Office action, for it fails to *prima facie* place the application in condition for allowance. This amendment was considered by the Examiner, but has not been deemed to place the application in condition for allowance. A copy of the Examiner's Advisory Action has been enclosed.

CONCLUSION

The petition must be **DISMISED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail¹, hand-delivery², or facsimile³.

Alternatively, Petitioner may wish to consider filing a petition under 37 CFR §§1.137(a) or (b).

It is noted in passing that Petitioner has submitted a request for continued examination (RCE) with this petition, however the RCE cannot be processed prior to the revival of this application.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
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Office of Petitions
United States Patent and Trademark Office

Encl. Examiner's Advisory Action

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

3 (571) 273-8300- please note this is a central facsimile number.